

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

ERIC DAILEY

PLAINTIFF

v.

Civil No. 08-5001

THE STATE OF ARKANSAS;
BENTON COUNTY, ARKANSAS;
JUDGE JEFFRIE RAY CONNOR;
DEPUTY PROSECUTOR JONI R.
ROSE; CORPORAL DIANE SPAIN;
JUDGE XOLLIE DUNCAN; and
JUDGE JOHN SCOTT

DEFENDANTS

O R D E R

Now on this 30th day of June, 2008, comes on for consideration the **Report And Recommendation Of The Magistrate Judge** (document #6), and plaintiff's **Objection To Dismissal Of Defendants And Objection To Deny My Motion For Injunctive Relief** (document #8), and the Court, being well and sufficiently advised, finds and orders as follows with respect to same:

1. The Court has carefully reviewed the Report And Recommendation and finds it to be sound in all respects -- both as to applicable law and relevant facts. Accordingly, the Court concludes that it should be adopted *in toto*.

2. The Court has also carefully reviewed plaintiff's objections to the Report and Recommendation and finds them to be without merit. The objections challenge Judge James R. Marschewski's "irrational logic," saying that the reasons for his recommendations are irrelevant and erroneous. The Court rejects

those contentions and finds, quite to the contrary, that Judge Marschewski's findings and recommendations are quite logical and comport with applicable law -- including both the Federal and State Constitutions. Plaintiff cites no apposite authority in support of his erroneous and irrelevant interpretations, nor is the Court aware of any. The objections will, therefore, be overruled.

IT IS THEREFORE ORDERED that the **Report And Recommendation Of The Magistrate Judge** is **adopted in toto**.

IT IS FURTHER ORDERED that plaintiff's **Objection To Dismissal Of Defendants And Objection To Deny My Motion For Injunctive Relief** (document #8) are **overruled**.

IT IS FURTHER ORDERED that, for the reasons stated in the **Report And Recommendation Of The Magistrate Judge**, plaintiff's claims against the State of Arkansas; Benton County, Arkansas; Judge Jeffrie Ray Conner; Deputy Prosecutor Joni R. Rose; Judge Xollie Duncan; and Judge John Scott are **dismissed with prejudice**.

IT IS FURTHER ORDERED that plaintiff's claims against Corporal Diane Spain are **remanded** to Magistrate Judge James R. Marschewski for further report and recommendation.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE